

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3
4 In the Matter of)

5)
6 American Medical Association)

7 Political Action Committee and)

8 Kevin Walker, as treasurer)

MUR: 5277

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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9 **CONCILIATION AGREEMENT**

10 This matter was initiated by the Federal Election Commission ("Commission"), pursuant
11 to information ascertained in the normal course of carrying out its supervisory responsibilities.

12 The Commission found reason to believe that American Medical Association Political Action
13 Committee and Kevin Walker, as treasurer ("Respondents"), violated 2 U.S.C. § 434(c)(2)(C).

14 NOW, THEREFORE, the Commission and the Respondents, having participated in
15 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
16 as follows:

17 I. The Commission has jurisdiction over the Respondents and the subject matter of
18 this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
19 § 437g(a)(4)(A)(i).

20 II. Respondents have had a reasonable opportunity to demonstrate that no action
21 should be taken in this matter.

22 III. Respondents enter voluntarily into this agreement with the Commission.

23 IV. The pertinent facts in this matter are as follows:

24 1. American Medical Association Political Action Committee is a political
25 committee within the meaning of 2 U.S.C. § 431(4), and is not an authorized committee of any
26 candidate.

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1 2. Kevin Walker is the treasurer of American Medical Association Political
2 Action Committee.

3 3. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires
4 that a political committee must file statements reporting any independent expenditure
5 aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before any election.
6 2 U.S.C. § 434(c)(2). The Act requires that independent expenditure statements shall be filed
7 within 24 hours after such independent expenditures are made, that these statements shall be filed
8 with the Commission and the Secretary of State for the State in which the expenditure is made,
9 and shall contain information indicating whether the independent expenditure is in support of, or
10 in opposition to, the candidate involved. *Id.* The Act requires that independent expenditure
11 statements shall include the identification of each person who made a contribution in excess of
12 \$200 to the person filing such statement, which was made for the purpose of furthering an
13 independent expenditure. 2 U.S.C. § 434(c)(2)(C).

14 4. The 2000 general election was held on November 7, 2000. Pursuant to the
15 Act, Respondents were required to file 24-Hour Notices for independent expenditures
16 aggregating \$1,000 or more made after the 20th day, but more than 24 hours before the general
17 election. This time period began October 19, 2000, and ended November 5, 2000.

18 5. Among the independent expenditures made after the 20th day, but more than
19 24 hours before the general election, were five independent expenditures of \$1,000 or more, each
20 made on October 23, 2000. The five independent expenditures were in the amounts of \$211,145,
21 \$184,870, \$13,200, \$14,600, and \$15,200, for a total of \$439,015.

22 6. The Commission does not have a record of having received 24-Hour Notices
23 on October 24, 2000 for these expenditures. The first Commission record of these expenditures

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1 is a copy of a 24-Hour Notice report, reflecting on its face that it was signed and notarized on
2 October 24, 2000, that was filed by Respondents on December 4, 2000 as an attachment to their
3 Post-General Report.

4 7. Respondents contend that they filed the relevant 24-Hour Notices in a timely
5 manner on October 24, 2000. Respondents contend that the notices were on a Schedule E report
6 that was placed in the same envelope as a second Schedule E report that the Commission
7 acknowledges receiving on October 24, 2000. Respondents contend that they prepared both
8 Schedule E reports on the same day, had both notarized by the same notary at the same time, and
9 presented both Schedule E reports in the same sealed envelope to the same messenger on the
10 same day. There are signed affidavits from the accountant who prepared the reports, the
11 treasurer who signed the reports, the bank notary who notarized the signatures, and the
12 messenger who delivered the envelope. There is also a delivery log showing that a representative
13 of the Commission signed for the envelope.

14 V. Although the Respondents contend that they timely filed the 24-Hour Notices in
15 question, since the report is not on record as having been filed on or before October 24, 2000, in
16 order to avoid the delay and uncertainty of litigation on these claims, and to settle and resolve all
17 issues and disputes regarding them, the Respondents will not further contest that five
18 independent expenditures of \$1,000 or more, totaling \$439,015, made after the 20th day, but
19 more than 24 hours, before the general election, were not filed within 24 hours of making the
20 independent expenditures, as required by 2 U.S.C. § 434(c)(2)(C).

21 VI. Respondents will pay a civil penalty to the Federal Election Commission in the
22 amount of Five Thousand, Five Hundred Dollars (\$5,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).
23 Due to the mitigating circumstances in this matter, as set forth in sworn affidavits provided by

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1 the Respondents, the civil penalty represents a reduction from the amount that would normally
2 have been imposed under 2 U.S.C. § 437g(a)(4)(C). Since the Administrative Fines program
3 does not apply to violations of 2 U.S.C. § 434(c), *see* 11 C.F.R. § 111.30, the matters resolved by
4 this conciliation agreement are not "previous violations" for purposes of 11 C.F.R. § 111.43.

5 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
6 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
7 with this agreement. If the Commission believes that this agreement or any requirement thereof
8 has been violated, it may institute a civil action for relief in the United States District Court for
9 the District of Columbia.

10 VIII. This agreement shall become effective as of the date that all parties hereto have
11 executed same and the Commission has approved the entire agreement.

12 IX. Respondents shall have no more than 30 days from the date this agreement
13 becomes effective to comply with and implement the requirement contained in this agreement
14 and to so notify the Commission.

15 X. This Conciliation Agreement constitutes the entire agreement between the parties
16 on the matters raised herein, and no other statement, promise, or agreement, either written or
17 oral, made by either party or by agents of either party, that is not contained in this written
18 agreement shall be enforceable.

1 FOR THE COMMISSION:

2 Lawrence H. Norton
3 General Counsel
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7 BY:

8 Rhonda J. Vosdigh
9 Rhonda J. Vosdigh
10 Associate General Counsel

12/18/02
Date

11 FOR THE RESPONDENTS:

12
13 Kevin Walker
14 Kevin Walker
15 Treasurer
16
17

November 12, 2002
Date

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